
Features Of Legal Regulation Of Public Procurement In Russian Law

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Abstract

Law is taken to mean rule and order, and it means general rules that cover a series of affairs equally. Like the law of supply and demand in economics or the law of gravity in natural sciences. The meaning of law in the term is binding rules and regulations that are established and implemented in a timely manner by an authority that has the power to legislate. The law in the special sense is the rules that are established by the legislature by following certain procedures, and in the general sense, it includes the approvals of the legislature and the government. Law is governed by a set of dos and don'ts known as the law. A necessity is the need for the law. To prevent human arbitrary behavior, we need laws. The peculiarities of the Russian Federation's legal framework governing public procurement are examined in this article along with their dynamics. contract system in the area of procuring goods, labor, and services for federal, state, and local needs, as well as regulatory laws governing the contract system. Throughout the study, it was possible to form a comprehensive understanding of the legal nature of public relations that emerged in the field of public procurement by addressing retrospective changes in this field, both in the normative and law enforcement areas. In addition, this article describes the function and position of the contract system and its supporting institutions in the national economy and draws broad conclusions regarding the issues that obstruct the successful accomplishment of public procurement objectives.

Keywords: Legal system, Law, state and municipal needs, regulations, contract system.

Introduction

It is known that information is power, and one of the most important information for anyone who empowers him is to know his legal rights in the field of work and personal life. When we talk about having information in the legal field, it does not mean that a person is a lawyer in all aspects, but everyone is expected to have enough knowledge in their respective field to protect themselves from making legal mistakes. Currently, issues related to improving legislation in general, and the sphere of procurement of goods, works, and services to meet state and municipal needs, in particular, are of particular importance. The institute of procurement for state and municipal needs (hereinafter referred to as procurement, public procurement) reflects all the processes taking place in the society, economy, legal and political system of a particular state. Building the mechanism of legal regulation turned out to be quite a complex and lengthy process. [1]

Justice has always been raised as an important issue and this is because of its position and role in the individual and social life of humans. Establishing justice has always been a human desire. Justice is an issue that is rooted in the intellect and nature of humans and every society needs it for its survival. Because without the implementation of justice, people's rights are lost, dissatisfaction is formed and chaos is created. Islam emphasizes justice a lot and numerous verses and traditions show its importance. The discussion of justice is valuable in all times and places. God's justice is at the top of all justices. The just God has sent his prophets to spread justice and in the verses of the Qur'an he has invited people to observe justice in all matters, which means human justice. Human justice itself is divided into two categories: individual justice and social justice. People must first create justice within themselves; In such a way that by ruling the power of reason over other powers of the soul, they balance them and after that try to

implement justice in the society. In this article, we will discuss the role of justice in explaining the legislative system and the executive system of legal courts.

The law is not only the administration of the government and the establishment of order in the society, but also the provision of lofty and superior goals, such as providing a suitable environment for the exercise of rights and freedoms and the provision of justice. Although Hayek offers a formal understanding of the rule of law due to his strong emphasis on the universality of law and the belief in formal equality, but in his opinion, regarding the relationship between the rule of law and the concepts of legality and constitutionalism, it shows his attention to The role of extra-legal principles is in the concept of the rule of law. This article is compiled in two chapters, the first chapter examines the fundamental issues and the second chapter deals with the role of the rule of law in the relationship between order and freedom.

The explicit processes of integration and optimization of legal regulation are what first distinguish the current stage of Russian legislative development. Contrarily, division and separation processes predominated during the 1990s, when public procurement legislation was first being developed, and this resulted in the development of new industries (such as social security, order placement, enforcement proceedings, budget (financial), banking, etc.). The direction of legal regulation has also changed as a result of the gradual shift in the role of the state in ensuring economic growth: instead of adopting more regulatory acts, this has led to an improvement in the quality and effectiveness of those acts in influencing ongoing processes in Russia while taking into account judicial practice, ongoing integration processes, and global experience in legal regulation. According to the Russian Federation's Ministry of Finance, "At the present time in the Russian Federation continues to be implemented on a large-scale reform of public Finance management, which focuses on: the formulation of fiscal policy on the basis of and in connection with the performance of government programs of the Russian Federation; ensuring a competitive and transparent procurement system for state (municipal) needs; increasing openness, transparency, and accountability [3-4]. They were designed to dismantle the previous management system, get away from centralized material and technical supply, obligatory state orders, and the forced formation of economic ties. Four main laws governing the purchase of goods and services for public use have been passed to date [5]. This law still bears the imprint of the previous framework for managing the national economy, which included numerous notions of products and goods (consumer goods, industrial and technical goods) [6], and this practice spread to all succeeding laws [7].

Methods

This article has used the review method. The review method is a method that reviews the existing background in a scientific topic. In review articles, the results presented in scientific writings about a specific topic are summarized and evaluated. This type of article may examine anything, it is designed to summarize, analyze and evaluate information that has already been published. In such articles, experimental and new findings are rarely reported. Review articles have a well-defined narrative, are usually critical, and should provide theoretical and emerging interpretations. The important role of review articles is to guide original scientific writings. For this reason, it is essential that the citations provided are accurate and complete.

Results and Discussion

Federal Law No. 2 came into effect next. 97-FZ, which consists of 28 articles and regulates only the actions of the state customer, which may be either a federal executive body or a legal entity to which the state customer has delegated some of its functions for carrying out the tender in accordance with the contract, is a statute titled [8]. The following laws on public procurement were all adopted at the end of 1994: "On the supply of products for Federal State needs"; No. 60-FZ of December 13, 1994; 53-FZ, dated December 2, 1994, which is about "The Purchase and Supply of Agricultural Products, Raw Materials, and Food for State Needs; No. On the State Material Reserve, per 79-FZ of December 29, 1994 [9]. According to it, the range of state customers is no longer approved, and it is also getting much wider. Nearly all clients that have funds from the national, regional, and state extrabudgets for public procurement automatically became state clients. This decree established the general requirement to place competitive orders for the purchase of goods for state needs at the expense of the federal budget, the budgets of the Russian Federation's constituent entities, state extra-budgetary funds, and extra-budgetary funds of those entities. The provisions of Presidential Decree No. 305, a number of normative and methodological materials have been adopted [10]. The Russian Federation's Ministry of Economy and Development approved the processes for approving purchases through closed tenders and placing an order with a single supplier, publishing a decision on concluding a contract for the purchase of goods, works, and services for state needs, and taking into account complaints from suppliers regarding violations of the bidding procedures by clients. The "Basic Principles for Financing Purchases of Goods, Works and Services for State Needs Placed on a Competitive Basis" were approved by the Russian Federation's Ministry of Finance. The Russian State Statistics Committee has established various means of federal state oversight over the administration of tenders for the purchase and supply of goods, works, and services for state requirements [11]. The goal of the law was to

promote fair competition, ensure the transparency of the process for acquiring goods for state and municipal needs, and ensure the cost-effective and efficient use of budgetary resources. The root causes of fraud and corruption in the use of budgetary funds were thought to be eliminated by clearly defining procurement procedures.

The truth is that this law did not actually achieve the good intentions it had in mind. The procurement mechanism had a poor level of effectiveness [12]. This is brought on by a number of issues and challenges, the most significant of which, in our opinion, are the following: inconsistent and imperfection of Russian legal norms; purchasing all kinds of goods (including simple and technically complex products, cultural values, rendering services, performing works, etc.); and performing all types of services.) in the same formal ways, which are based solely on price and do not consider the effectiveness of the delivered goods, works, or services, or the qualification and dependability of the supplier, performer; existing corruption in the field of placing orders; pricing issues [13]; low qualification level of specialists employed in this field. It should be noted that, typically, a single-cycle technology—the contract system—is used by many nations to satisfy government needs. Contract systems are characterized by the widespread application of state needs planning techniques, price monitoring, libraries of model contracts, mechanisms for contract execution monitoring, protocols for evaluating the outcomes of state contract execution, and specialized information resources for contract system management [14-15].

UNCITRAL decided to create a model procurement law because it believed that some countries' current procurement laws were insufficient or out-of-date. This reduces the effectiveness and efficiency of the procurement process, opens the door to abuse [16], and prevents public procurement organizations from exchanging used public funds for goods of sufficient value [17]. Furthermore, the Model Law can assist in removing the negative aspects brought about by the fact that inadequate procurement legislation at the national level hinders international trade, a sizeable portion of which is related to procurement [18]. The legal regulation of procurement for state and municipal needs has gradually been integrated into a system that is based not only on the provisions of current law but also on acts of state corporations, which are essentially acts of delegated rulemaking [19-20]. which established the fundamentals and provided specifics on the public procurement process. At the same time, the contract system is understood as a group of participants and the actions they take, such as using the unified information system, to ensure state and municipal needs. Likewise, procurement starts with the selection of the supplier (contractor, contractor) and concludes with the performance of obligations by the parties to the contract, and in cases where the law so requires (i. e. When no notice of procurement is required, the contract's conclusion and the parties' performance of their obligations constitute the procurement. As is already evident from the definitions, the term "procurement" as opposed to "placing orders" refers to more than just choosing a supplier; it also covers upholding obligations. If Federal Law No. The need for a fundamental regulatory legal act to establish the order placement procedure led to the creation of 94-FZ, international, and foreign experience accumulated in this area of legal regulation. The variety of ways to place orders has also increased thanks to the law on the contract system. Various tenders (closed, limited participation, two-stage), requests for quotations (offers), and purchases from a single supplier are also options in addition to electronic and closed auctions. It's also important to note Federal Law No. dated 31.12, 504-FZ. 2017 [20], which brought about significant and long-overdue changes to the law governing the contract system in terms of governing the processes for selecting suppliers (contractors, performers) in electronic form. To increase the privacy of participants in the procurement process and to combat corruption, the electronic bid submission mechanism offers a step-by-step review of bids. The selection of the supplier (contractor, performer) is made using automated software and hardware platforms of electronic platforms as a result of the following processes-stages: 1) automatic submission of bids to the customer (in parts) within the stipulated time frame and ensuring access to them; 2) formation of protocols for evaluating bids by the stages of their consideration; and 3) sending information to the personal accounts of procurement participants. The expert evaluation of high-quality proposals and the evaluation of the participant's qualifications are the only two stages of electronic supplier identification procedures that commission members will carry out directly. At the same time, information about the price offers of the procurement participants is only disclosed in the final protocol, which is generated automatically by the electronic platform, in order to reduce the subjective component when evaluating requests from commission members. The ability to submit applications at any time of the day from any territory of the Russian Federation, including those located a long way from the customer, seems to mean that these measures will significantly reduce both the time and financial costs of all procurement participants, and the number of potential suppliers will rise. Additionally, they will lessen the likelihood of collusion between procurement participants and customers as well as between participants themselves. The coronavirus pandemic has enhanced the function of the public procurement system, which is how the state delivers aid to the populace, affected economic sectors, small businesses, and socially conscious non-profit organizations. The introduction of electronic trading procedures, electronic document management, digital signatures, and more active Internet-based customer and supplier communication as a result of forced self-isolation and other pandemic-related restrictions.

It should be noted that one of the most significant and anticipated changes in this area was the ability for the parties to change the contract with their consent, subject to certain restrictions. Because of this, Law No. Part 65 of the 44-FZ supplement allows for the following changes to be made by the parties with their consent: - the term of performance of the contract; - the contract's price; - the price of a unit of goods, work, or services (in the circumstances described in Part 24 of Article 22 of Law No. 44-FZ). A state or municipal client who has received budget funds may also make changes, subject to the budget obligations raised for the duration of the contract.

Additionally, in accordance with Section 65 of Article 112 of Law No. 44-FZ, modifications to the contract may be made if events beyond the control of the contracting parties occurred during the contract's execution as a result of the spread of a new coronavirus infection brought on by 2019-nCoV, as well as in other situations recognized by the Government of the Russian Federation and making the contract's execution impossible. In particular, in accordance with the Decree of the Government of the Russian Federation No. dated 08.05 is 647. 2020 [21], in addition to the situations covered in Part 1 of Article 93 of the Federal Law "On the Contract System," the customer may carry out the following scenarios when purchasing from a single supplier (contractor, performer) in conditions of deterioration due to the spread of a new coronavirus infection: a) the supplier listed in the minutes of the Government of the Russian Federation meeting, the minutes of the coordination and advisory bodies led by the Chairman of the Government of the Russian Federation, and the plan outlining the top priorities for action to ensure sustainable economic growth; b) the execution of a specific procurement specified by the minutes of the Government of the Russian Federation meeting, protocols of coordination and advisory bodies, and a plan outlining priority measures (actions) to ensure sustainable economic development; c) procurement on behalf of the Chairman of the Government of the Russian Federation in order to carry out the decisions of the Coordination Council under the Government of the Russian Federation to stop the spread of a new coronavirus infection, as well as actions of the plan that outlines priority measures (actions) to ensure sustainable economic development; d) at the expense of the reserve funds of the Russian Federation Government and the highest executive bodies of the Russian Federation's constituent entities.

In conclusion, we point out that the legal regulation of the contract system consists of numerous regulatory acts that have been adopted throughout the development of the law governing the contract system. Only the law itself is valid as amended by the more than 60 acts of Federal Ministries and Services, approximately 120 acts of the Russian Federation's government, and almost 100 federal laws. The adoption of new documents has already caused the validity of some documents to expire [22]. The contract system is governed by numerous regional acts. For instance, approximately a thousand acts were passed in the Republic of Tatarstan [23]. Obviously, all of this makes activities related to public procurement significantly more difficult.

Summary

There are clauses in the contract of sale of goods and special attention should be paid to them. Usually, in order to carry out various transactions, there needs to be a series of conditions, among which the conditions of the contracts include the intention of the parties and the satisfaction of the parties to the contract, the competence or competence of the parties to perform the work, the specific subject matter of the transaction between the parties of the contract, and also the legitimacy of the transaction. . Usually, in contracts for the sale of goods, the consumer and also the supplier have a very important role, and in these contracts, any natural or legal person who is a consumer of goods or services can be a consumer, and the supplier of goods is also any It can be a producer or an importer or a distributor that provides and sells services or goods. Usually in the distant past, consumers' rights were violated and consumers were exposed to injustice. They are usually related to product production processes, the risks of product consumption, the correct way to consume products, how to store products, accurate prices, and after-sales services. sales and other matters, but in the past several decades, with the efforts that have been made in this regard and have led to the creation of consumer rights, this right has been given to all consumers to have full information, the right to freely choose goods, the right They have the right to safety, the right to fair trade, the right to compensation for the damages caused to them, etc.

Conclusions

The first thing that we have to explain is the contract for the sale of goods, which is one of the most important contracts between sellers and buyers. Basically, this contract is defined as a contract between the buyer and the seller, during which the seller gives his property, which is a commodity, to the buyer, and the buyer gives his property, which can be cash, in exchange. Receive the desired product and give it to the seller. Usually, the contract that is concluded between the parties in this regard has a legal effect, and if necessary, legal measures can be taken in this regard. Usually, various things are mentioned in this contract, and in principle, the

conditions and obligations of the parties regarding the purchase and sale of the desired goods are mentioned in it in order to avoid problems that can occur in this regard, and no one's rights are lost in the meantime.

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